

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA

JANNE C. CHORAK,)	
)	
Plaintiff,)	
)	
v.)	CIVIL NO. 2:11cv114
)	
MICHAEL J. ASTRUE, COMMISSIONER)	
OF SOCIAL SECURITY,)	
)	
Defendant.)	

OPINION AND ORDER

This matter is before the court on a “Petition for Attorney Fee Pursuant to § 206(b)(1)”, filed by Frederick J. Daley, Jr. (“Petitioner”), one of the attorneys for the Plaintiff, Janne C. Chorak, on August 21, 2013. The defendant has not objected to the motion.

For the following reasons, the motion will be granted.

Discussion

Petitioner represented Plaintiff in a civil action before this Court for judicial review of the Commissioner’s unfavorable decision. The Court reversed and remanded this case for further proceedings on November 14, 2011. Thus, the Court has jurisdiction over this fee petition pursuant to 42 U.S.C. § 406(b). Plaintiff subsequently prevailed on remand when the ALJ issued a favorable decision on May 2, 2013 and awarded benefits back to December 2006. The Commissioner’s Office of Central Operations calculated the benefits and awarded Plaintiff \$78,668.90 in total past-due benefits. Of this amount, \$19,667.23 represents 25% of the award and was withheld for the direct payment of an attorney fee by the Social Security Administration.

Petitioner received compensation in the amount of \$3,857.75 for work before the court

under the Equal Access to Justice Act, 28 U.S.C. § 2412, for 34.47 hours of legal services.

Section 206(b)(1) of the Social Security Act, permits the court to award a reasonable fee for work before the court not to exceed 25% of past-due benefits to which the claimant is entitled by reason of a judgment rendered in favor of the claimant. 42 U.S.C. § 406(b)(1). Petitioner requests that the full amount of 25% be awarded to counsel, in accordance with the fee agreement entered into between Plaintiff and the Petitioner.

Due to the contingent nature of the representation in this case, the express contract between Plaintiff and the Petitioner and the absence of any reasons why the award from the overall past due benefits would be unjust, the court approves a fee authorization in the amount of \$19,667.23 pursuant to § 206(b)(1) of the Social Security Act, and Petitioner shall refund the EAJA fee of \$3,857.75 to Plaintiff.

Conclusion

On the basis of the foregoing, the Petitioner's fee petition [DE 21] is hereby GRANTED.

Entered: September 23, 2013.

s/ William C. Lee
William C. Lee, Judge
United States District Court